

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

RICHARD GARDNER,

Petitioner,

v.

SUPERINTENDENT,

Respondent.

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Case No. 3:10-CV-262 JD

OPINION AND ORDER

Richard Gardner, a *pro se* prisoner, filed this habeas corpus petition challenging a prison disciplinary proceeding [DE 1]. In MCF 10-03-0001, a hearing officer at Miami Correctional Facility found Gardner guilty of violating rule B233 of the Adult Disciplinary Procedures (“ADP”), and imposed a suspended sanction of 15 days lost earned time credits [DE 16-1]. That suspended sanction was never enforced, and under the ADP, the time for enforcing the sanction expired in September 2010 [DE 16-3]. Based on these circumstances, the Respondent moves to dismiss the petition [DE 15]. As the Respondent points out, a prison disciplinary proceeding can only be challenged in a habeas petition if it lengthened the duration of the prisoner’s confinement. *Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003); *Moran v. Sondalle*, 218 F.3d 647, 650-51 (7th Cir. 2000). Here, the Respondent has demonstrated that the disciplinary determination Gardner is seeking to challenge did not lengthen his sentence. Gardner has not filed any response to the motion.¹ Accordingly, the petition will be dismissed.

¹ Gardner was previously granted an extension until December 10, 2010, to respond to the motion [DE 18]. On December 7, 2010, he sent the Court a letter which indicated he had not received the order granting him an extension [DE 19]. The order was resent to him on December 8, 2010 [*Id.*]. To date, Gardner has had no further contact with the Court.

For these reasons, the petition [DE 1] is DISMISSED.

SO ORDERED.

ENTERED: January 21, 2011

/s/ JON E. DEGUILIO
Judge
United States District Court